

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

KENNETH BASH, et al,

Defendants.

Case No. 1:20-CR-00238-JLT-SKO

ORDER GRANTING THE MOTION TO
RECONSIDER BY MR. PERKINS AND
DENYING THE MOTION TO
RECONSIDER BY MR. BANNICK
(Doc. 1534, 1535)

The Court previously denied the motion to sever brought by Mr. Perkins and joined by Mr. Bannick. (Doc. 1490) Mr. Perkins now moves the Court to reconsider that order and Mr. Bannick joins in Mr. Perkin's motion (Doc. 1535). Though the Court finds its analysis in its order to be correct, [REDACTED] convinces the Court that Mr. Perkins' trial should be severed. Thus, the motion as it relates to Mr. Perkins (Doc. 1534) is **GRANTED**. Because Mr. Bannick has not shown through his joinder in the motion to reconsider that his unique circumstances demonstrate the Court erred, his joinder in the motion to reconsider (Doc. 1535) is **DENIED**.

I. Motion to reconsider

"Although not expressly authorized by the Federal Rules of Criminal Procedure, motions for reconsideration are allowed in criminal cases." United States v. Jones, 916 F.Supp.2d 83, 86 (D.D.C. 2013). "No precise 'rule' governs the district court's inherent power to grant or deny a

1 motion to reconsider a prior ruling in a criminal proceeding. Rather, the district court's authority
2 to revisit a ruling on a suppression motion 'is within its sound judicial discretion.'" United States
3 v. Lopez-Cruz, 730 F.3d 803, 811 (9th Cir. 2013) quoting United States v. Raddatz, 447 U.S. 667,
4 678 n. 6 (1980).

5 Local Rule 430.1(i) requires parties moving for reconsideration in criminal cases to
6 demonstrate "what new or different facts or circumstances are claimed to exist that did not exist
7 or were not shown upon such prior motion or what other grounds exist for the motion." "But as is
8 true of motions for reconsideration in civil cases, motions for reconsideration in criminal cases
9 are almost always denied when they rest on arguments or evidence the moving party previously
10 raised or could have raised and denial would not cause manifest injustice." United States v.
11 Davis, 2021 WL 1122574, at *2 (E.D. Cal. Mar. 24, 2021), *aff'd*, 2022 WL 1090945 (9th Cir.
12 Apr. 12, 2022).

13 **II. Analysis**

14 After the Court issued its order denying the motion to sever, Mr. Perkins' counsel filed a
15 document under seal explaining their trial strategy and why they are unable to be prepared to
16 present this defense at the currently scheduled trial. This information made clear that more time is
17 needed for counsel to prepare for trial due in large part to the fact that, the discovery produced
18 since September 2024, [REDACTED] such that they need to do
19 further investigation. Though the Court [REDACTED]
20 [REDACTED] it feels compelled to sever Mr. Perkins'
21 trial to allow this work to be done by the defense.

22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]
26 [REDACTED]
27 [REDACTED]
28 [REDACTED]

1 [REDACTED]
2 Even still, the government is correct that this information could have been presented with
3 the earlier motion, however, counsel were justifiably reluctant to share trial strategy [REDACTED]
4 [REDACTED]
5 [REDACTED]

6 [REDACTED] Thus, the Court very reluctantly concludes that Mr. Perkins has demonstrated undue
7 prejudice will result if his case is not severed from the January 2025 trial.

8 The Court has thought long and hard on this decision and has concluded that severance,
9 rather than continuing the entire trial set for January 2025, is the only remedy. In doing so, the
10 Court recognizes the burdens and risks posed by this decision. It has considered the likely
11 witnesses who will have to repeat testimony and the burden on the government in having to
12 present this case more than once. It finds that these considerations, when weighed against the
13 seriousness of the charges brought against Mr. Perkins, must give way. Even still, to mitigate
14 these burdens and based upon the relevant considerations, the Court does not find that Mr.
15 Perkins must be tried in a solo trial. Rather, his trial will be joined with either of the other two
16 currently scheduled.

17 Finally, though Mr. Bannick joins in Mr. Perkins' motion to reconsider, he has not made
18 any additional showing particular to his circumstances that would justify granting his motion, and
19 the evidence presented by Mr. Perkins does not translate to Mr. Bannick. Moreover, the
20 allegations of the operative indictment—naming him in all four of the murders set forth in Counts
21 2, 3, 5 and 6—place him a position that is different from Mr. Perkins, such that the Court cannot
22 imagine a circumstance that would change the Court's order related to him. Thus, Mr. Bannick's
23 motion for reconsideration is **DENIED**.

24 **ORDER**

25 For the reasons discussed, the Court **ORDERS**:

26 1. The motion to reconsider the order denying Mr. Perkins' motion to sever is
27 **GRANTED**. Mr. Perkins' motion to sever is **GRANTED**, and his trial date is vacated. Because
28 continuance of the trial is at the request of Mr. Perkins, the Court find that good cause exists, and

1 the interests of justice outweigh the interests of the defendant and the public in a speedy trial. The
2 Court will exclude time through September 23, 2025, which is when the next trial set to begin in
3 this case.

4 2. **No later than March 7, 2025**, counsel for the government, Mr. Perkins and Mr.
5 Gray **SHALL** file a joint statement indicating whether Mr. Perkins' case should go to trial with
6 Mr. Gray, or it should go to trial with Mr. Weaver & Mr. Pitchford.

7 3. Under no circumstances may the information disclosed by the government
8 according to the Court's scheduling order (Doc. 1286) be disclosed to Mr. Perkins in any manner.
9 Once a new trial date is selected, counsel **SHALL** submit a stipulated scheduling order that will
10 control Mr. Perkins' access to this information.

11 4. Because Mr. Perkins' motion for a bill of particulars (Doc. 1533) lacks the urgency
12 it had when it was filed, it is **CONTINUED to March 5, 2025 at 1 p.m.** before Magistrate Judge
13 Oberto. Likewise, any motion in limine or other trial motion filed by Mr. Perkins, including Docs.
14 1525, 1528, 1529, 1537, 1539, are terminated. They be re-noticed by Mr. Perkins at the relevant
15 time. When this occurs, the government may stand on the opposition briefs it has filed or it may
16 file new oppositions.

17 4. Mr. Bannick's motion to reconsider (Doc. 1535), brought by way of his joinder in
18 Mr. Perkins' motion, is **DENIED**.

19
20 IT IS SO ORDERED.

21 Dated: **December 27, 2024**


UNITED STATES DISTRICT JUDGE